



## City of Cincinnati

FOR IMMEDIATE RELEASE

Contact: Meg Olberding, 513-352-5358  
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Date: December 29, 2006

### **CITY SUES LEAD PAINT MANUFACTURERS**

On December 27, 2006, the City filed suit against the manufacturers of lead paint. The lawsuit is a state law complaint for public nuisance and asks the lead paint manufacturers to compensate the City for the damages caused by lead paint. Mayor Mark Mallory sent a letter to paint manufacturers notifying them of the City's intent.

Cleveland based paint company, Sherwin Williams, has led the industry charge to prevent recovery by municipalities on such a public nuisance theory. To this end, the lead companies successfully lobbied the lame duck Ohio legislature to pass legislation (S.B. 117) purporting to limit a city's right to recover against lead manufacturers for a public nuisance. Because the General Assembly passed the new law, it was necessary for the City of Cincinnati to file this lawsuit to protect its rights and any potential recovery before the new law became effective.

The complaint is centered on allegations involving public nuisance (creating an unreasonable risk to the health and safety of the public); conspiracy to sell a lead product they knew was hazardous; unjust enrichment (unjustly profiting at the expense of the public's health); and indemnity (seeking repayment for costs the City incurred in cleaning up the hazardous lead product).

The City has retained the services of the Rhode Island firm Motley Rice that successfully prosecuted a similar case against the same defendants for the state of Rhode Island. The Rhode Island case set an important precedent allowing a government to recover for its citizens for public nuisance claims against lead paint manufacturers. The desired result is compensation for the City for costs associated with lead inspections and public health initiatives, including injunctive relief requiring the industry to clean up the consequences of its toxic product.

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# City of Cincinnati



**Mark Mallory**  
*Mayor*

Office of the Mayor

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December 26, 2006

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Mr. Dan Smith  
President & Chief Executive Officer  
Millennium Chemicals Inc.  
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Houston, TX 77010

Mr. Jean-Pierre M. Ergas  
Chairman of the Board &  
Chief Executive Officer  
Bway Corporation  
8607 Roberts Drive, Suite 250  
Atlanta, GA 30350-2237

Mr. Harold C. Simmons  
Chairman & Chief Executive Officer  
NL Industries, Inc.  
5430 LBJ Freeway  
Dallas, TX 75240

Mr. Gary Rodkin  
Chief Executive Officer  
ConAgra Foods Inc.  
One ConAgra Drive  
Omaha, NE 68102-5001

Mr. Christopher M. Connor  
Chairman, President &  
Chief Executive Officer  
The Sherwin-Williams Company  
101 Prospect Avenue, N.W.  
Cleveland, OH 44115-1075

Mr. David Lilley  
Chairman of the Board, President &  
Chief Executive Officer  
Cytec Industries Inc.  
Five Garret Mountain Plaza  
West Paterson, NJ 07424

Mr. Robert Essner  
Chairman, President &  
Chief Executive Officer  
Wyeth  
Five Giralda Farms  
Madison, NJ 07940

Mr. Charles O. Holliday, Jr.  
Chairman of the Board &  
Chief Executive Officer  
E.I. DuPont de Nemours and Company  
1007 Market Street  
Wilmington, DE 19898

Gentlemen:

On December 13, 2006, the Ohio General Assembly passed Substitute Senate Bill 117 in an attempt to limit the right of Ohio's cities to seek justice for its children. This legislation was passed during a lame duck session of our legislature as an amendment to a judiciary bill I previously sponsored as a State Senator.

This legislative maneuvering and Sherwin Williams' pending lawsuit filed in federal court in Columbus does little to solve our common problem: the health of Ohio's children. The citizens of Ohio and Cincinnati deserve better. The City of Cincinnati

has no choice but to file a lawsuit now to preserve its ability to address the public health crisis caused by lead poisoning.

Cincinnati would have been pleased to engage in a cooperative effort with your companies to seek a compromised solution to the public health crisis caused by lead products. Indeed, we still welcome a cooperative solution to the problem of lead poisoning from products created by your companies. But, your collective attempt to eliminate our citizens' right to seek redress in the Courts has compelled the City to file suit to protect its rights.

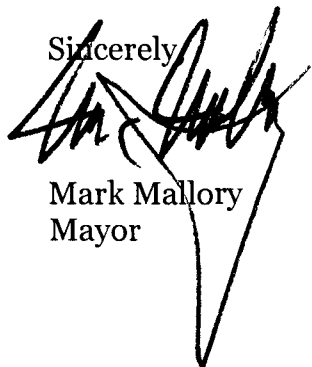
The City of Cincinnati currently faces a budget situation that has a direct impact on our Health Department. Cincinnati's Health Department is unique. It provides direct clinic services and indigent care, in addition to its increasing role as an environmental and public health service agency. In this role, the Health Department is attempting to address the lead poisoning crisis in our community. Unfortunately, the city has limited resources to attempt to address this massive public health crisis.

As an urban city, many of our homes and buildings are older and contain lead paint. Far too many of Cincinnati's children are living in these homes and exposed to the harmful effects of lead paint. Exposure to lead poses a significant risk to children and leads to the increased likelihood of various future developmental problems. Many of our families and children are not even aware that they are in danger.

In order to fully protect our children and families, a lead paint program must include outreach, testing, and abatement. It is extraordinarily costly to identify affected homes and remove or abate the lead paint. Currently, Cincinnati taxpayers and homeowners are exclusively bearing these costs. I encourage you to come to the table and become a true partner with the City of Cincinnati in addressing the public health crisis caused by lead poisoning.

If you wish to discuss how you can become involved in addressing this issue, please contact J. Rita McNeil, the City Solicitor at 513-352-3325. I am optimistic that together we can make significant progress toward make the lives of Cincinnati children healthier by eliminating the problems caused by lead paint in our city.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Mallory', is written over a large, stylized checkmark or 'V' shape.

Mark Mallory  
Mayor